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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,483	09/19/2003	Marcia L. Stockton	RSW920030194US1	8859

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02/09/2006

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EXAMINER

CAPUTO, LISA M

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/666,483

Applicant(s)

STOCKTON, MARCIA L.

Examiner

Lisa M. Caputo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12-20, 22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-20, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 19 December 2005 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 8-9, and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bridgelall et al. (U.S. Patent No. 6,415,982, from hereinafter "Bridgelall").

Regarding claims 1-2, 8-9, and 15-16, Bridgelall discloses a system and a method of preparing information usable in theft detection using radio frequency identification (RFID) technology, comprising:

an RF identification (ID) tag 88 affixed to each of one or more items (a shopping tote 86) being paid for by a shopper in a current transaction and wherein the RFID tag 88 contains a purchase information that identifies the shopper or customer (see Figure

1, col. 6, lines 15+), which obviously teaches that the system of Bridgelall includes a means (not specifically shown) for storing the customer identifier in the RFID tag 88 affixed to each of one or more items (the shopping tote 86) being paid for by a shopper in a current transaction prior to placing the shopping tote 86 on a counter 87; it should also be noted that each of the articles 85 within the shopping tote 86 has a barcode 14 on it for identification;

means (an RFID reader 212, for example, having a processing software (computer program product) therein for executing instruction) for reading a customer identifier (to identify the shopper or customer) from the customer loyalty card (i.e., the customer loyalty card is defined as a card 240 having a customer's information, such as a credit, debit, or identification information); and

wherein the card 240 having resonant elements in connection with RF readers, which clearly teaches that an RFID tag affixed to the customer loyalty card (see Figure 4, col. 11, lines 63+).

Although Bridgelall does not explicitly teach the item-identifying RFID tag can be subsequently searched to determine whether the at least one items were presented for purchase in the current transaction, Bridgelall does teach that each of the articles 85 within the shopping tote 86 has a barcode 14 on it for identification (see col 6, lines 15-27). Hence, the RFID tag on the shopping tote is correlated with the barcodes on the items within it. In addition, Bridgelall teaches that the system includes having a hand-held reader 10 with a pair of triggers 71, 72 used to actuate the data collection operation (i.e., reading the symbol 14 and reading the RFID tag 88). Further, Bridgelall teaches

the system used with a specific program application that a data record may be accessed by the system and transferred (see col. 7, lines 28+).

Hence, in view of the teaching of Bridgelall and with ordinary skill in the art, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have recognized that the RFID tag of Bridgelall is capable of being searched to determine whether the at least one items (i.e. shopping tote 86 and further, articles 85 within the tote) were presented for purchase in the current transaction in order to transfer and access the data record in the system.

3. Claims 3-7, 10, 12-14, 17-20, and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bridgelall in view of Otto (U.S. Patent No. 6,554,187). The teachings of Bridgelall have been discussed above.

Regarding claims 3-6, 10, 12-14, and 17-20, although Bridgelall teaches that the RFID tag (i.e., RFID tag affixed to each item presented for purchase) contains purchase information that identifies the shopper or customer; Bridgelall does not disclose the system comprising a means for concluding that at least some of one or more items possessed by a shopper were not paid if the customer identifier (i.e., purchase information) is not presented in an RFID tag affixed to the item.

Otto discloses a method and a system 10 for detecting and managing RFID tag (RFID label 12 on items brought into a store by the customer, and wherein managing RFID tag includes a means for concluding that at least some of one or more items possessed by a shopper were not paid (stolen) if the purchase information is not presented in an RFID tag affixed to the item (see co. 1, lines 43+ and col. 2, lines 42+).

This concluding operation obviously teaches the claimed searching and identifying steps.

In view of the teaching of Otto, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of identifying a stolen item brought into the store by a customer, as taught by Otto, into the teachings of Bridgelall in order to identify the stolen item (i.e. item not paid for) brought into the store by the customer and to alert the store security personnel to tack the person accordingly. Such a modification would have provided a system that accurately distinguished the stolen item that are brought into the store, thus, provide the greater improvement in managing the labeled item in the store.

Regarding claims 7 and 22-23, Bridgelall does not disclose the step of remembering each item that was in the shopper's possession when the shopper entered an establishment in which a transaction represented by the receipt was conducted, and wherein the searching and concluding steps do not apply to the remembered items.

Otto teaches managing RFID labels on items brought into a store by a customer (i.e., when the customer enters an establishment in which a transaction represented by the receipt was conducted) and identify the item as being potentially stolen if the RFID label does not contain purchase information, which obviously requires the step of remembering each item that was in the shopper's possession when the shopper entered an establishment in which a transaction represented by the receipt was conducted. Wherein the system interrogate the RFID label on item in the store, and

comparing RFID label information in the RFID label (item in the shopper's possession when the shopper entered the establishment) with the store RFID label information (i.e., searching the store RFID label information that do not apply to the remember items) to determine whether the RFID label is from another store different than the one store (i.e., concluding the store RFID label information that do not apply to the remember items).

In view of the teaching of Otto, it would have been obvious to one of ordinary skill in the art at the time the invention was made incorporate the specific steps of searching and concluding that do not apply to the remembered items that are in the shopper's possession in the teaching of Bridgelall in order to accurately distinguished the stolen item that are brought into the store when the shopper entered the establishment and to accurately alert the store security personnel to tack the person accordingly. Such modification would have provided the greater improvement in managing the labeled item in the store.

Response to Arguments

4. Applicant's arguments with respect to claims 1-10, 12-20, and 22-23 have been considered but are moot in view of the new ground(s) of rejection. Although the same art is used, there is a slight modification of the interpretation of the references. Hence, some of the arguments will still be addressed, and such, applicant's arguments filed 19 December 2005 have been fully considered but they are not persuasive.

5. In response to the applicant's arguments that the item is "being paid for" and is no longer being "presented for purchase" examiner respectfully submits that in the broadest interpretation these limitations are recognized in the art as being equivalents

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since the same result is obtained (i.e. the shopper is buying the items). In response to the applicant's arguments that Bridgelall's shopping tote is not being paid for, examiner respectfully submits that the items within the tote with the identifying barcodes relating to the RFID tag on the tote are being paid for. Further, the examiner also submits that it is not interpreted that the customer information is written onto the barcode, but that the barcodes are used in identifying what is within the tote, as Bridgelall already teaches that the RFID tag 88 may identify the shopper or customer.

In response to applicant's argument that there is no suggestion to modify the reference, the examiner recognizes that obviousness can only be established by modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art. In this case, there is a motivation to modify the reference because Bridgelall teaches the basis of being able to store customer information in the RFID tag and to correlate items within the tote which contains the RFID tag on it. Hence, it is proper to realize with ordinary skill in the art that the tote is able to be searched for the different, individually identifiable articles.

In response to applicant's arguments regarding the terminology used in the Advisory Action, examiner respectfully submits that due to the modification of the rejection and different interpretation this argument is moot.

In response to applicant's argument with respect to the neither Bridgelall nor Otto teaches the step of reading a customer identifier from a customer loyalty card

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possessed by a shopper, the Examiner respectfully disagrees. The Examiner relied on Bridgelall for the teachings of reading a customer identifier from a customer loyalty card possessed by a shopper. Bridgelall teaches an RFID reader 212 having a processing software therein for executing instruction for reading a customer identifier (identify the shopper or customer) from the customer loyalty card (i.e., the customer loyalty card is defined as a card 240 having a customer's information, such as a credit, debit, or identification information) and wherein the card 240 having resonant elements in connection with RF readers, which clearly teaches that an RFID tag affixed to the customer loyalty card (see col. 11, lines 63+). Accordingly, Applicant's argument on this point is not persuasive.

Hence, examiner respectfully submits that the art of Bridgelall and Otto teach the limitations of the claims. More specifically, regarding independent claims 1, 8, and 15, examiner respectfully submits that the RFID tag affixed to the tote in Bridgelall accounts for all of the barcoded identifiable items within the tote, and this RFID tag also contains a customer identifier from the customer loyalty card in order to track the purchases thereof as recited in independent claims 4, 12, and 18.

Conclusion

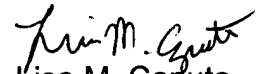
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Lisa M. Caputo** whose telephone number is **(571) 272-2388**. The examiner can normally be reached between the hours of 8:30AM to 5:00PM Monday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached at **(571) 272-2398**. The fax phone number for this Group is (571) 273-8300.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [**lisa.caputo@uspto.gov**].

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All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Lisa M. Caputo

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February 4, 2006